



Economic Impact Analysis Virginia Department of Planning and Budget

22 VAC 40-705 – Child Protective Services
Department of Social Services
December 3, 2007

Summary of the Proposed Amendments to Regulation

The Board of Social Services (Board) proposes to make changes to the Child Protective Services (CPS) Regulation that include: (1) expanding the circumstances of physical neglect to include when a parent or other responsible person leaves a child under the age of 18 alone in the same dwelling as a person, not related by blood or marriage, who has been convicted of an offense against a minor for which registration as a violent sexual offender is required, (2) modifying the circumstances under which a caretaker is accused of medical neglect, (3) allowing a positive drug toxicology of the mother of a newborn infant indicating the presence of a controlled substance to be sufficient to suspect that a child is abused or neglected, (4) lowering the time that a local department has to either invalidate a complaint of abuse or neglect or begin an investigation/family assessment from 14 days to five days, (5) requiring the local department to, upon request, advise the person who was the subject of an unfounded investigation if the complaint or report was made anonymously, (6) requiring a CPS worker to conduct a face-to-face interview with and observe not just the alleged victim, but also his/her siblings, (7) allowing the requirement that the CPS worker visit the site where the alleged victim child lives be waived in complaints of child abuse and neglect involving caretakers outside of the home, (8) allowing local departments to obtain and consider statewide criminal history record information from the Central Criminal Records Exchange and use the results as evidence if a child abuse or neglect petition is filed in connection with the child's removal, (9) clarifying regulations regarding the opportunities for alleged abusers to consult with the local director or his designee to hear and refute the evidence, (10) allowing the CPS worker to notify the Family Advocacy Program representative in writing when a family assessment is conducted and the family is determined to

be in need of services, (11) requiring that the department implement a uniform training plan for child CPS workers *and* for supervisors, and (12) changing the requirement that workers complete skills and policy training within the first year of their employment to require that they complete such skills and training within the first two years of their employment.

Result of Analysis

The benefits likely exceed the costs for one or more proposed changes. There is insufficient data to accurately compare the magnitude of the benefits versus the costs for other changes.

Estimated Economic Impact

Section §63.2-217 of the Code of Virginia delegates the authority and responsibility for promulgating child welfare regulations to the State Board of Social Services. Section §63.2-1503 instructs local departments of social services to staff CPS units and carry out the CPS program according to regulations adopted by the Board.

Under current regulation, physical neglect occurs when there is a failure to provide food, clothing, shelter, or supervision for a child to the extent that the child's health or safety is endangered, including abandonment or parental/caretaker absence. Under the proposed regulation, physical neglect would also explicitly include leaving a child alone in the same dwelling as a person, not related by blood or marriage, who has been convicted of an offense against a minor for which registration is required as a violent sexual offender (pursuant to §9-1.902). The cost of this amendment includes an increase in the number of parents/caretakers who are accused of physical neglect, and therefore a potential increase in the number of family assessments/investigations that must be pursued by local departments. The cost could also include the cost to parents/caretakers of finding alternative childcare. The benefits of keeping children safe from sexual assault, however, including saving the resources that will be spent in the future on physical or psychological medical care should assault take place, will outweigh any costs.

Under current regulation, medical neglect occurs when there is a failure by the caretaker to obtain or follow through with a complete regimen of medical, mental, or dental care for a condition which if untreated could result in illness or developmental delays. Under the proposed amendment, a decision by parents or other persons legally responsible for the child to refuse a

particular medical treatment for a child with life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person legally responsible for the child and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person legally responsible for the child and the child have considered alternative treatment options; and (iv) the parents or other person legally responsible for the child and the child believe in good faith that such a decision is in the child's best interest. This amendment implements statutory changes found in Chapters 479 and 597 of the 2007 Acts of Assembly. Under current regulation, each local department makes its own decision whether or not to report a refusal of medical care and claim medical neglect. The assessment of medical neglect, therefore, is left to the judiciary. This means that multiple jurisdictions could make different determinations of medical neglect in similar cases. In addition to the benefit that state-wide consistency will have on parental or caretaker decision-making processes, the economic benefits of this amendment lie mostly in saved court costs. The Department of Social Services (Department) might feel compelled to take to court parents whose 15 year-old son has refused, say, a second round of chemotherapy to treat cancer. The court case would be costly both to the state and to the parents of the minor, and is not likely to affect the likelihood of the child's survival. On the other hand, the amendment allows the Department to differentiate between a 15 year-old's refusal to undergo chemotherapy with little chance of success and a parent's potentially lethal decision not to provide a 9 year-old antibiotics for strep throat. The cost of this amendment lies in the requirement for CPS workers to evaluate the medical situation for the conditions outlined above. Since most CPS workers already evaluate the medical situation in as careful a manner as this amendment would require, the amendment should add minimal, if any, cost. Therefore, the benefits of this change outweigh the costs.

Under the proposed amendment, a positive drug toxicology of the mother indicating the presence of a controlled substance would be enough to suspect that a newborn is abused or neglected. Since the amendment is not requiring local departments (or hospitals) to test women for drugs—it is simply allowing a positive drug toxicology to motivate an investigation or a family assessment—the amendment should not add any undue cost to the state or localities. The amendment will benefit local departments or hospitals in that they can choose to avoid the cost

of testing a newborn if the mother tests positive. Therefore, the benefits should outweigh the cost of this proposed amendment.

Under current regulation, all complaints and reports of suspected child abuse and/or neglect must be recorded in the child abuse and neglect information system and either screened out or determined valid within 14 days of receipt. Since a report against a mother alleging abuse or neglect of a newborn can be invalidated if the mother provides evidence that she sought substance abuse counseling or treatment during her pregnancy, a mother has 14 days to present such evidence. Under the proposed amendment, local departments will have five days to either screen a report out or determine it valid and, therefore, mothers will have only five days to present evidence. The fourteen-day requirement has been around for 30+ years and is the result of a process that required local departments to mail the reports/complaints to the Department where staff would manually enter the reports into a system. Since the filing/communication systems have become electronic, 14 days is no longer required. According to the Department, since most local departments make a decision to invalidate or accept reports of complaints within five (business) days, this amendment will not change much in practice. Therefore, there will be neither costs nor benefits to this amendment; it simply reflects what is being done in practice.

Under current regulation, when the identity of a reporter (of child abuse or neglect) is known to the Department, or local department, these agencies must make every effort to protect the reporter's identity. If a person suspects that he is the subject of a report or complaint of child abuse and/or neglect made in bad faith or with malicious intent, that person may petition the court for access to the record including the identity of the reporter or complainant. Under the proposed amendment, the local department may, upon request, advise the person who was the subject of an unfounded investigation that the complaint or report was made anonymously (if, in fact, it was). According to the Department, this amendment was written to avoid the unnecessary court costs incurred by subjects of unfounded reports who go through the court to find out the reporter only to discover that the reporter was anonymous. The benefit of the amendment is the saving of court costs in these circumstances. There is little, if any, cost to the amendment.

Under current regulation, CPS workers are required to conduct a face-to-face interview with and observation of the alleged victim child. Under the proposed amendment, CPS workers would be required to conduct face-to-face interviews with and observations of both the alleged

victim children and their siblings. According to the Department, these interviews are recommended in their CPS guidance documents and CPS workers already interview siblings, so this regulatory amendment will not change anything in practice. In addition, although the regulation does not specify that CPS workers need to interview only siblings who live with the alleged victim, the regulation also does not specify that CPS workers need to interview all siblings. The change just gives CPS workers the authority to interview siblings, if they deem necessary and as is currently practiced. Therefore, this change has neither costs nor benefits.

Under current regulation, the CPS worker must observe the environment where the alleged victim child lives. Under the proposed amendment, this requirement can be waived in complaints of child abuse and neglect involving caretakers in state licensed and religiously exempted child care centers, regulated and unregulated family day care homes, private and public schools, group residential facilities, hospitals, or institutions. This amendment frees CPS workers from being required to complete visits that are irrelevant to the suspected abuse or neglect, thereby saving CPS time and resources. There is no apparent cost associated with this amendment. Therefore, the benefits of this amendment outweigh the costs.

The proposed regulation will allow local departments to obtain and consider statewide criminal history record information from the Central Criminal Records Exchange on any individual who is the subject of a child abuse and neglect investigation where there is evidence of child abuse or neglect and the local department is evaluating the safety of the home and whether removal is necessary to ensure the child's safety. The local department may also obtain a criminal record check on all adult household members residing in the home of the alleged abuser and/or neglector and where the child lives, and all results may be admitted into evidence if a child abuse or neglect petition is filed in connection with the child's removal. According to the Department, the cost is about \$15 per search; however, the proposed regulation merely allows departments to obtain and consider the information, it does not mandate them to do so. Similarly, in amending the regulation to allow the CPS worker to notify the Family Advocacy Program representative in writing when a family assessment is conducted and the family is determined to be in need of services, the Board is not adding monetary costs or benefits to local departments, since the regulation carries no mandate. The benefit of the changes is that the changes allow the local department to use the Central Criminal Records Exchange or notify the Family Advocacy Program representative if the local department determines that the benefits of

such actions outweigh the costs. Therefore, the benefits outweigh the costs for both of these proposed amendments.

The Board also proposes to clarify the opportunities that the subject of an investigation has to meet with the local department. It proposes to delete language specifying when and how the alleged abuser has opportunities to consult with the local director and informally present testimony, witnesses, and documentation, and add in the following sentence: “The subject of the report or complaint may consult with the local department to hear and refute evidence collected during the investigation”. The Board feels that the new language makes clear the rights of the alleged abuser to meet with the local department and present evidence at any point during the family assessment and investigation. The language is being changed because both subjects and local departments have expressed confusion about the type and timing of an interaction between the subject of an investigation and the local department regarding an investigation. It should not, however, change anything in practice. The Board felt that these changes increase the clarity of the regulation. This change should impose neither costs nor benefits.

Under current regulation, the Department must implement a uniform training plan that establishes minimum standards for all CPS workers in Virginia, and all workers must complete the skills and policy training within the first year of their employment. Under the proposed amendment, the Department would have to implement a training plan that establishes minimum standards for CPS workers *and* supervisors, and instead of having to complete the training within the first year of their employment, workers and supervisors would have two years to complete the training. Although being allowed two years to complete the training might make the training less burdensome for workers in the short-term, there is no reason to think that it will reduce the cost of the training for workers, since the amount of time that they spend in training and away from their normal activities will not change. If local departments have significant annual turnover, this amendment could reduce the number of individuals who end up having to be trained, but because the CPS programs are locally administered, the Department does not have information on staff turnover rates. Therefore, assuming that allowing workers two years to get the training will not affect the quality of work that they do, as far as we can quantify, there are neither costs nor benefits to this change for workers.

Although the training for supervisors has not yet been developed, and therefore the nature of the training is unknown, the Department believes that the time required for the supervisor training will be similar to that required for workers. The training itself costs the state (actually, in the end, the federal government pays for the training of CPS workers and supervisors) around \$600 per worker per day. Currently, workers are required to have 17 days of training (four days CPS New Work Training with OASIS, three days Intake, Assessment, and Investigation in CPS, two days Sexual Abuse, three days Sexual Abuse Investigation, two days Out of Family Investigation, two days Understanding Domestic Violence, and one day Domestic Violence and its Impact on Children)¹, for a total of about \$10,200 per worker. Assuming that one day is equivalent to eight hours of training, this is a total of 136 hours of training. The mean hourly wage for social workers in Virginia is around \$20.² Supervisors probably make a little more, but as a low estimate, we will assume a wage of around \$20/hour. Therefore, the cost to local departments of requiring supervisors to attend the training is approximately \$2720 per supervisor (the cost is a one-time cost that can be spread out over the two years that supervisors would have to complete the training). In addition, currently all training courses are offered only in person (i.e., none of the trainings are internet-based), so the supervisors will be required, as the workers are currently required, to travel to one of the five area training centers that are located in Hampton, Richmond, Fairfax, Abington, and Roanoke.³ This means that the maximum distance a CPS worker/supervisor would have to travel is around 200 miles roundtrip. Therefore, the total cost per supervisor to attend the training is \$10,200 + \$2720, plus the cost of traveling 200 miles roundtrip to one of the five area training centers and the cost of food or hotel stay, as necessary. The \$2720, the cost of traveling 200 miles, and the food or hotel costs are the costs that must be borne by departments in Virginia.

According to the Department, the benefit of training the supervisors lies in the improved skills of CPS workers that will come from better supervisor-support and better oversight. The Board has had conversations for many years about the importance of adding supervisors to the training plans, as many other states have, citing the “trickle-down” benefits of supervisor training. Because these benefits are so difficult to quantify, however, it is not clear if the benefits outweigh the costs of implementing a supervisor training plan.

¹ Source: Department of Social Services

² Source: Bureau of Labor Statistics, http://www.bls.gov/oes/current/oes_va.htm

Businesses and Entities Affected

In fiscal year 2006, 47,130 children were reported as being neglected or abused and 40,959 caretakers were suspected of abusing or neglecting a child or children. Potentially, all children and all local law enforcement organizations could be affected by the proposed amendments.

Localities Particularly Affected

The proposal amendments affect all localities and do not disproportionately affect any specific localities in the Commonwealth.

Projected Impact on Employment

The proposed changes are not anticipated to have any impact on employment. Although the cost of having to train supervisors *could* have an effect on the number of CPS workers a local department employs, it does not seem likely that the costs incurred will be enough to significantly impact employment in local CPS departments.

Effects on the Use and Value of Private Property

The proposed amendments are not anticipated to have any negative effect on the use and value of private property.

Small Businesses: Costs and Other Effects

The proposed changes are not anticipated to add cost or otherwise affect small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendments have no adverse impact on small businesses.

Real Estate Development Costs

The proposed amendments do not create additional costs related to the development of real estate for commercial or residential purposes.

³ Source: Department of Social Services

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.